

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant (s): Chung P. Park

Application No.: 09/762,161

Group Art Unit: 1711

Filed: May 27, 1999

Examiner: Morton Foelak

For: FOAMS USEFUL IN SOUND MANAGEMENT

I HEREBY CERTIFY THAT THIS CORRESPONDENCE, COMPRISING A TOTAL OF 4 PAGES, IS BEING TRANSMITTED TO FAX
PHONE NUMBER (703) 872-8310 FOR GROUP ART UNIT 1711 OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
ADDRESSED TO: ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231, ON:

August 19, 2002

ROBERT S. LELKES

WHO'S SIGNATURE APPEARS BELOW:



SIGNATURE OF PERSON SIGNING CERTIFICATE

19 August 2002, before 8 AM EST (2 PM CET)

DATE & TIME OF SIGNATURE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Pursuant to Applicant's duty of disclosure under 37 CFR §1.56, Applicant requests consideration of the information provided below.

Starting sometime in 1997, a subsidiary of the assignee of this patent application, The Dow Chemical Company, namely Dow Deutschland Inc. (now known as Dow Deutschland GmbH & Co. OHG), was working on a low cost polyethylene foam plank dubbed "GREYFOAM" intended for packaging applications. A product information sheet for this product is attached together with a Form PTO-1449.

The cell size tolerance of GREYFOAM was between 2.0 and 3.0 mm in each of the vertical, horizontal and extrusion directions and the foam planks had a density tolerance from 22 to 26 kg/m³. The planks were perforated at a perforation density of about 1.0 to 1.1 perforation per square centimeter to release blowing agent. The perforation is estimated to have opened about 5 to 15 percent of the cells to create planks having an open cell content in the range from about 20 to 25 percent. This product was sampled to some packaging fabricators for feedback starting in February 1998. Based on that feedback, Dow decided to discontinue production of that material.

However, Dow Deutschland did not maintain control over the samples to those fabricators. Dow Deutschland released/sold 58 cubic meters GREYFOAM in 1998

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starting in February, 227 cubic meters GREYFOAM in 1999, and 146 cubic meters GREYFOAM in 2000. While some GREYFOAM was released before the September 17, 1998, priority date of this application, there is no admission at this time that such release or sale, if considered relevant to this application, would qualify as prior art. In that event, Applicant reserves the right to submit evidence of a prior date of invention.

In addition, The Dow Chemical Company and/or one or more of its affiliates manufacture and sell a polyethylene foam under the trademark ETHAFOAM*. ETHAFOAM* is an extruded polyethylene foam plank perforated at a perforation density of about 1.0 to 1.1 perforation per square centimeter to release blowing agent and manufactured at various plank widths. One grade of ETHAFOAM™ known as ETHAFOAM* Nova was manufactured sold in commercial quantities more than one year prior to the September 17, 1998, priority date of this application with the aim to have an average cell size of 2.30 mm when the plank width is greater than one meter. For cell size measurements in each measurement direction used to calculate the average cell size (vertical, horizontal and in the extrusion direction), a manufacturing tolerance from a 2.00 mm minimum to a 2.70 mm maximum is specified. This manufacturing tolerance allows for variability from the 2.30 mm average cell size.

The Dow Chemical Company and/or one or more of its affiliates also manufactured and sold more than one year prior to the September 17, 1998, priority date of this application commercial quantities of ETHAFOAM* having smaller average cell size specifications prior to the priority date of this application, such as ETHAFOAM* Nova in plank widths less than one meter and ETHAFOAM™ Select in various plank widths. Since that information is no more than cumulative to that provided above for ETHAFOAM* Nova having plank widths greater than one meter, Applicant believes additional information regarding those ETHAFOAM* products need not be included here. If the Examiner considers such information to be potentially material to the examination of this application, Applicant will provide the same upon request.

The Examiner is requested to review this information and formulate his own understanding thereof.

Respectfully submitted,

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*ETHAFOAM is a trademark of The Dow Chemical Company

